

Special Report for Big Flats, NY Regarding Uses in the Recreation Conservation District and Conservation Zones

Completed by Southern Tier Central Regional Planning and Development Board (STC)¹

December 2013



The intent of this report is to analyze the Recreation Conservation District (RCD) and Conservation (C) zones in the Town of Big Flats zoning regulations to gain a clearer understanding of the best use of the land in those zones.

This report was requested by the Town of Big Flats to advise them about how to adapt their zoning regulations to best define and utilize the Recreation Conservation District (RCD) and Conservation (C) zones. Additionally, STC was asked for guidance about how these zones can be used to manage flood risks.

In this report, STC provides the following:

- A review of the existing regulations for the RCD and C zones, their intent, and the current allowed uses
- An examination of the areas around these zones and how development in the RCD and C zones will impact the surrounding area
- An assessment of how the floodplain considerations affect development in the RCD and C zones and how the threat of flooding should influence development decisions
- Recommendations about “Extractive use – soil mining” as a use in the RCD and C zones

¹ This report was prepared for the New York State Department of State with funds provided under Title 11 of the Environmental Protection Fund.

Existing Regulations

The Recreation Conservation District (RCD) and Conservation (C) Zones as Described in the Big Flats Zoning Regulations

“Recreation Conservation District (RCD) Intent. In accordance with the Comprehensive Plan, this *district* delineates certain open areas of value to the public within the town represented in their natural, undeveloped, or unbuilt condition. It is recognized by the town that the *principal use* of certain open areas is and ought to be the *development*, management, and utilization of the natural *resource* base possessed by these areas. In order that this value be maintained and this *use* encouraged, a zoning *district* is established to regulate the location of *buildings* and *structures* and the *use* of *parcels* and *lots*, in order to protect and enhance the natural *resources*, natural amenities, natural habitats of wildlife, watershed areas, agricultural capabilities, public recreation areas, and the public health, safety and welfare by reducing the hardship and financial burdens imposed upon the town by the wanton destruction of *resources*, and the improper and wasteful *use* of open land and wooded areas. It is further the intent of this *district* to permit compatible *uses*, buildings, and *structures* only at a low *density* and low impact as an added guarantee of compatibility with surrounding land *uses*.” (Section 17.08.040 O of Zoning Law)

“Conservation (C) Intent. This district delineates those open, public-owned, agricultural and/or environmentally sensitive land and water areas of the town that because of their current *use*, critical relationship to the Chemung River, agricultural potential or extreme environmental sensitivity, should be preserved and utilized only for less intensive and carefully considered *development* that is compatible with the sensitive nature of such lands; and to ensure that the existing character, nature and benefits derived from such lands are preserved and retained.” (Section 17.08.040 N of Zoning Law)

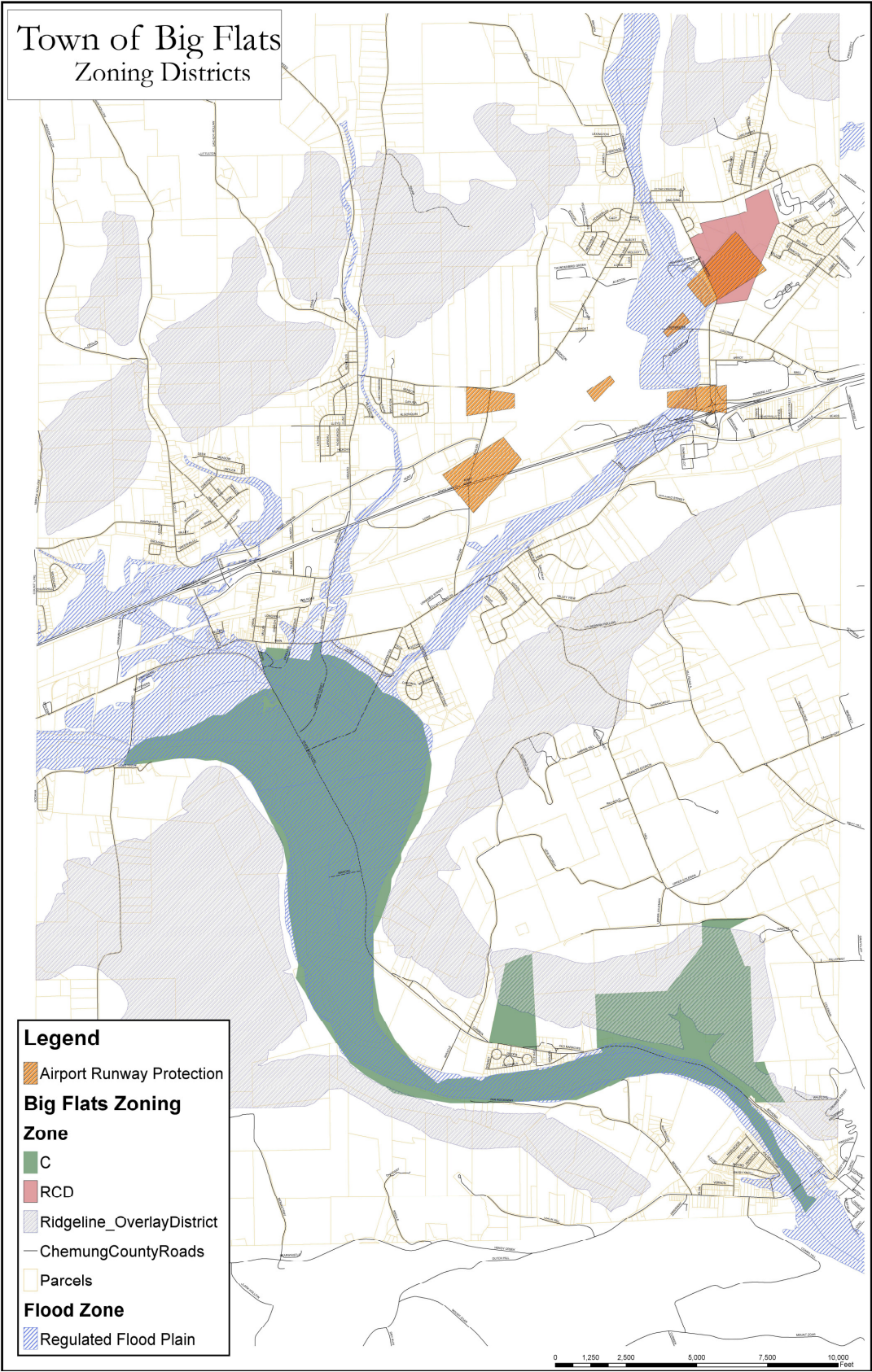
The location of the RCD and C zones is shown on Map 1, along with the Flood Damage Protection Overlay District, Ridgeline Overlay District, and Airport Runway Protection area. Map 2 shows the Town’s zoning districts.

Related Definitions from the Zoning

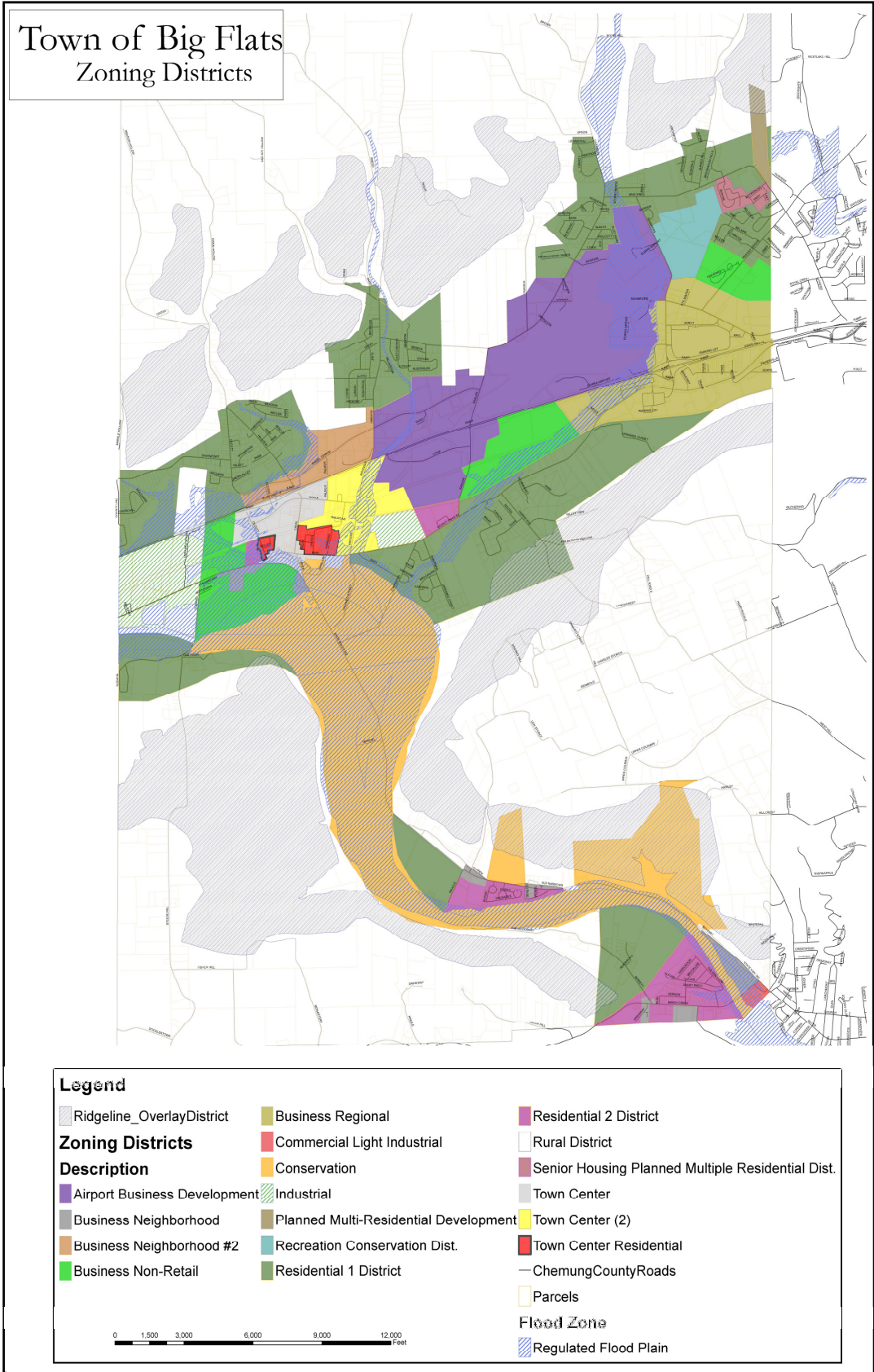
“Recreation, Amusement means a site containing permanent or *temporary structures* or events for traveling carnivals, circuses, amusement parks, driving ranges, batting cages, mini-golf, go kart tracks, paintball courses, bowling centers, roller skating facilities, and similar indoor or outdoor recreational gaming activities.”

“Recreational facility means a public, commercial, or noncommercial *building*, place, site, or field for leisure *use* where such use may include, but are not limited to, swimming, tennis, court games, baseball and other field sports, riding academies, and playground activities, and excluding mechanical devices.”

Map 1: RCD and C Zoning Districts



Map 2: Zoning Districts in the Town of Big Flats



“Campground means a public or privately owned facility consisting of campsites offered for rent on a nightly, weekly, monthly, or seasonal basis, as well as common amenities intended to serve *campground* patrons. Such amenities may include restaurants, conference facilities, restrooms, recreation areas, small-scale *convenience marts*, and assembly areas. Campsites may or may not feature access to publically or privately maintained utilities such as sewer, water, or electric service. *Campgrounds* shall not be confused with *alternative dwelling parks*.”

“Significant wildlife habitat (SWH) means the habitat frequented by endangered and threatened species.”

“Viewshed means the geographic area as viewed from a scenic *resource*, which includes the proposed activity. The *viewshed* may include the total visible activity area from a single observer position or the total visible activity area from multiple observers' positions. A map that shows the geographic area from which a proposed action may be seen is a *viewshed*.”

Permitted Uses for RCD and C Districts

Below is a chart of permitted uses. Uses not in the chart are not permitted in either district.

USE	Conservation District (C)	Recreation Conservation District (RCD)
<i>Residential – As Principal Use</i>		
<i>Seasonal dwelling or hunting cabin</i>	S	
<i>General – A Principal Use</i>		
<i>Campground</i>	S	
<i>Government</i>	P	P
<i>Nature center</i>	S	S
<i>Public utility building, e.g., electric switch or pump station</i>	S	S
<i>Wind energy conversion system</i>	S	
<i>Zoo</i>	S	
<i>Business – As Principal Use</i>		
<i>Agricultural animal*</i>	S	
<i>Agricultural plant*</i>	S	
<i>Agri-business*</i>	S	

<i>Antenna</i>	S	
<i>Auction facility, Farm</i>	S	
<i>Farm market</i>	S	
<i>Feed lot</i>	X	
<i>Golf or ski facility</i>	S	S
<i>Outdoor recreation or amusement park</i>		S
<i>Stable, commercial</i>	S	
<i>Vehicle sales and/or repair, heavy equipment</i>	X	
<i>Wireless telecommunication facility</i>	S	
Industrial – As Principal Use		
<i>Extractive use, soil mining</i>		X ¹
Accessory to a Principal Use Listed in this Table		
<i>Accessory use other than those listed in this table</i>	P/S	
<i>Antenna</i>	P/S	
<i>Roadside stand</i>	P	
<i>Wind energy conversion system</i>	S	S
<i>Stable, Private</i>	P	P

S=Permitted with site plan approval

P=Permitted

X= Permitted with site plan review and special permit by Town Board

* Agricultural uses in a Certified Agricultural District shall be exempt from regulations as provided under Agricultural and Markets Law Section 305-a

Note 1=As site preparation only, to make site suitable for future development

Comprehensive Plan

Recreation Addressed in the Big Flats Comprehensive Plan

“Through the survey, residents were also asked to identify what types of recreational resources they would like to see developed in Big Flats. About half the respondents liked the idea of trails and greenways (51%), bikeways (51%) and hiking trails (50%). Many respondents liked the idea of

indoor recreational facilities (27%), picnic areas (26%), and a miniature golf range (17%).” (Section 10.6)

“Recreational Resources Goal 1: Continue to meet Town residents’ needs for recreational resources and community services.

Recreational Resources Goal 2: Maintain and enhance existing parks and recreational facilities and explore options for creating new ones.

Recreational Resources Goal 3: Develop trails throughout the Town to provide additional recreational opportunities, improved access, and connections to the regional trail network.

Recreational Resources Goal 4: Promote water-based recreational activities at the Town’s various water bodies and waterways.” (Section 10.6)

Natural Environment Addressed in the Big Flats Comprehensive Plan

“Maintaining strong floodplain regulations and strengthening the Town’s buffer requirements were identified as important.” (Section 1.4.1)

“A total of 95% of survey respondents felt that protecting the Town’s scenic nature was either “important” (33%) or “very important” (62%). About 60% identified the Town’s scenic beauty as one of the reasons they enjoy living in the Town, while 44% appreciated the rural lifestyle...Illustrative of their concern, an overwhelming 90% of survey respondents said they would support efforts to protect open space and scenic resources.

Natural Environment Goal 1: Protect and enhance lands which are environmentally significant and/or sensitive, and act to minimize any adverse impacts man-made development may have on land, air, water quality, natural habitats, animal and plant species, unique land formations, and agricultural and scenic resources.

Natural Environment Goal 2: Preserve and protect open space areas that serve as important recreational and leisure time resources within the Town.

Natural Environment Goal 3: Preserve and protect areas of open space that provide important aesthetic value to the Town.

Natural Environment Goal 4: Preserve and enhance the many scenic resources and vistas in Big Flats.” (Section 10.3)

Analysis of Current Regulations

The current intent of the Recreation Conservation District (RCD) is unclear. In order to make the zone easier to implement, a clearer description should be included in the zoning. The RCD intent

states, “this district delineates certain open areas of value to the public within the town represented in their natural, undeveloped, or unbuilt condition. It is recognized by the town that the principal use of certain open areas is and ought to be the development, management, and utilization of the natural resource base possessed by these areas...to permit compatible uses, buildings, and structures only at a low density and low impact as an added guarantee of compatibility with surrounding land uses.” The RCD zone allows the most limited development of all the zones. The zone intends to protect open space while allowing some strict development to serve the public for recreational purposes. With the zoning as it currently stands, there is little opportunity for recreation beyond that of amusement parks, golf courses or ski facilities, which are intensive uses. These regulations are not restrictive in a way to protect the land, but rather to encourage very specific types of development. More intensive recreational uses are suited for the area, which is highly developed, more so than that of the Conservation district.

Also, a large portion of the RCD zone has limitations due to the overlapping Airport Runway Protection area. This could make certain types of structures a problem during the site review process. The area within the Airport Runway Protection area should be considered separately from the remainder of the RCD zone.

Similarly, the Conservation (C) zone needs a clearer intent that specifies what it is that the Town wishes to “conserve.” The stated intent is to protect open, publicly-owned, agricultural and/or environmentally sensitive land, especially around the Chemung River. The current zoning allows more development than the RCD zone, but limits allowed uses to those that are compatible with the environmentally sensitive areas. The use table indicates that this zone is meant to encompass the Town’s agriculture industry. However, the intent is vague regarding other environmental resources. Does the Conservation zone exist only due to flood concerns? Or does it also include “environmentally sensitive land” where wildlife habitat, viewsheds, aquifers, and other features should be protected?

The Conservation zone is surrounded by the Ridgeline Overlay District (RLO) and Rural (R) district and generally follows the path of the Chemung River. Map 1 indicates that most of the Conservation district lies within the floodplain. The Town’s Flood Damage Prevention Overlay District establishes standards for development in the mapped floodplain and floodway, but does not necessarily protect the natural functions of these environmentally sensitive lands. The C zone supplements this by also limiting the allowed uses. Use of this zone to protect floodplain functions could be clarified by referring to natural floodplain functions in the zone’s intent.

The Conservation zone includes or is adjacent to many of the scenic resources that are cited in the zoning law as viewsheds that the Ridgeline Overlay District is intended to protect (Section 17.24.030 L). These include the Palisades area, Chemung River, future Chemung River Greenway, Community Park, Miniers’ Fields, New York State Route 352, and Tanglewood Nature Center. It may also include a property eligible for inclusion in the National Register of Historic Places. If the Town wishes to use the Conservation zone to increase the protection of these scenic resources, this should be clarified in the stated intent. Likewise, if this zone includes significant wildlife habitat that the Town wishes to conserve, this should also be stated.

A distinct difference between the intent and functions of the RCD and C zones needs to be created. It is not effective for two similar zones to exist in the Town, both with the purpose of conserving sensitive areas. Further, the intent must spell out what the Town means by “conservation.”

Flood Insurance Considerations

As of August 2013, there were 87 flood insurance policies in the Town of Big Flats, many of which are discounted because of the Town’s participation in the Community Rating System (CRS) of the National Flood Insurance Program (NFIP). The Town is currently a Class 8 CRS community as a result of activities that reduce the potential for flood damage and are credited by the CRS program. This enables premium discounts of 5 or 10% on the higher-cost flood insurance policies. Additional discounts could be achieved by implementing additional activities that qualify for CRS credit. Almost half of the current flood insurance policies also qualify for subsidized rates because they were built in high hazard areas (Special Flood Hazard Area²) prior to enactment of floodplain development regulations. The number of subsidized and discounted NFIP policies is indicated in the following table.

Type of Flood Insurance Coverage	Number of Policies (August 31, 2013)	CRS Discount	Subsidized?
Pre-FIRM building ³ in the Special Flood Hazard Area	41	10%	yes
Post-FIRM building ⁴ in the Special Flood Hazard Area	10	10%	no
Standard Policy in a moderate or low hazard area	9	5%	no
Preferred Risk Policy in a moderate or low hazard area	27	0%	no

The Flood Insurance Reform Act of 2012 includes measures to make the NFIP more fiscally sound, including increasing the cost of all flood insurance policies and phasing out of subsidized rates.

² Special Flood Hazard Area is shown on the Town of Big Flats Flood Insurance Rate Maps (FIRMs) as Zone AE, A, or AH and as “regulated floodplain” on Map 1. This is the area with a 1% or greater probability of flooding in any given year (also called the 100-year floodplain).

³ In the Town of Big Flats, a pre-FIRM building is one that was constructed prior to September 30, 1981 (date of the initial FIRM) that has not been substantially improved since that date. Most pre-FIRM buildings were constructed without taking the flood hazard into account.

⁴ In the Town of Big Flats, a post-FIRM building is one that was constructed or substantially improved after September 30, 1981. Because the Town participated in the National Flood Insurance Program at the time of construction (or substantial improvement), post-FIRM buildings should meet flood protection standards.

When certain triggers are met, subsidized rates will be replaced by elevation-based insurance costs, which are expected to be significantly higher. For example, \$100,000 in coverage on a house with a basement could increase from a subsidized rate of \$1,052 to an elevation-based rate of \$7,800 per year.⁵ Some subsidized policies will retain current rates until certain triggers are met and then increase over a number of years. However, new policies will be subject to the elevation-based rates immediately, which could have a major impact on housing markets in the high hazard flood zone (where flood insurance is generally required for a mortgage).

One way that the Town can assist with the high cost of flood insurance is by improving the Town's CRS classification, and hence the discount on insurance premiums. The CRS program provides significant credit for open space preservation within the floodplain (because the best strategy for preventing flood damage is to keep flood-prone lands free of development). One way to qualify for this credit is enactment of restrictive land development regulations that prohibit buildings and filling within areas of the floodplain that are currently open space. In the Town of Big Flats, about half of the Special Flood Hazard Area is currently included in the Town's Conservation District.⁶ If regulations within this zone are sufficiently restrictive to qualify for Open Space Preservation CRS credit, this would increase the Town's CRS rating by at least 1 class. The improved CRS rating would enable an additional 5% flood insurance discount for buildings in the Special Flood Hazard Area (increasing the discount from 10 to 15%.) This would be particularly beneficial for those wishing to sell or purchase buildings that were constructed in the floodplain before 1981 (which would no longer be eligible for subsidized rates).

Recommended Zoning Amendments

From the comprehensive plan survey and goals, it is clear that Town residents value recreation and are interested in promoting it. They also value the Town's open space and support efforts to protect its scenic resources. With this in mind, the Town should consider zoning amendments that promote a range of activities from high-intensity to low-intensity recreation while preserving natural areas open space, and scenic vistas.

Conservation (C) Zone Recommendations

STC recommends that the Conservation district become stricter to provide increased protection for sensitive environmental resources. Allowed uses could include multi-use trails and other low – impact recreation, which would support the Recreational Resources Goals of the Town's Comprehensive Plan. Increased development restrictions in this zone could qualify for Open Space Preservation credit for the Town's Community Rating System (CRS) program (which enables

⁵ Source: NYS Department of Environmental Conservation.

⁶ The Conservation District encompasses 2,317 acres, of which 1,677 are in the Special Flood Hazard Area. The Special Flood Hazard Area for all waterbodies in the Town of Big Flats encompasses 3,284 acres.

reduced flood insurance premiums throughout the Town). To obtain this CRS credit for those portions of the C zone that are in the floodplain and currently undeveloped, the Town would need to prohibit construction of new buildings, filling, and storage of material, as well as grading or other activities that obstruct flood flows or remove flood storage.

STC recommends that the intent of the Conservation district (Section 17.08.040 N) be amended to explicitly state which features of the “existing character, nature and benefits derived from such lands” are to be “preserved and retained.” If the Town wishes to restrict new construction within this zone, this desire should also be stated in the intent. The suggested language below is based on STC review of goals in the Comprehensive Plan, the purpose of the Flood Damage Prevention Local Law, the intent of the Aquifer Protection Overlay District, and the scenic resources specified in Ridgeline Overlay District section of the zoning law. STC recommends including the following additional language in the Conservation zone intent:

It is the intent of this *district* to minimize losses due to flooding, protect natural areas that accommodate floodwaters, minimize the need for rescue and relief efforts associated with flooding, preserve the quality and quantity of groundwater *resources*, protect significant *viewsheds*, preserve *significant wildlife habitat*, enhance opportunities for outdoor recreation, and protect agricultural resources. This zone supports low intensity recreational and agricultural uses that do not require the construction of new buildings (except for small structures that are a “necessary appurtenance” to the agricultural and recreational uses).

Based on the current and recommended revised intent of the Conservation district and the recommended use revisions below, the Town may want to reevaluate the Conservation district’s delineation. Further protection of particularly important scenic resources identified in Section 17.24.030 L of the zoning law could be accomplished by including additional areas within the Conservation district. In addition, enactment of increased restrictions in the Conservation district may warrant removal from the zone of any areas that are not compatible with the more stringent requirements. Although existing buildings within the C zone would be grandfathered into the law, there may be areas where new construction is also acceptable. For example, the portion of the Tanglewood Nature Center property that currently has a visitor center and parking area could be excluded from the Conservation district to enable construction of additional amenities in that area. Any areas removed from the Conservation district could be zoned as Rural.

Recreation Conservation District (RCD) Recommendations

The area currently zoned as a Recreation Conservation District should encompass more varied development. The rationale is that this area is not flood-prone and does not contain pristine ecological or scenic resources. Development within the RCD would be in character with the surrounding area. This contrasts with the Conservation zone, which is a more environmentally sensitive and surrounded by rural land. Allowing additional uses within the RCD zone would clarify the districts and allow development to be more concentrated and located on less sensitive land. STC

recommends that the RCD zone be eliminated and the area merged with one of the nearby zones. Inclusion in the Business Non-Retail zone would allow some of the recreational uses currently permitted in the RCD zone. Alternately, it could be included in the Airport Business Development zone and recreational uses allowed in this zone.

Recommendations Concerning Recreation

Big Flats should more clearly define recreation, especially regarding high-impact and low-impact recreation. Uses like sports fields should be permitted in the existing C and RCD zones. For example, a grass soccer field would not jeopardize the intent of either zone or the environment while allowing for a recreational opportunity. Since the existing RCD zone is surrounded by development, allowing more intense recreational uses in RCD would be aligned with the character of the area. However, the Conservation zone is surrounded by the Rural (R) district and is largely floodplain, which would accommodate low-impact recreation.

Big Flats' Zoning Law also lacks adequate definitions for campground recreation. In addition to distinguishing between high- and low-impact recreation, the zoning law should also consider the difference between "primitive camping" and "high-amenity camping" and ensure that neither type of camping is confused with a *manufactured home park*.

Recommended Definitions

STC recommends that the following definitions be added to the zoning law to encompass existing recreational uses (*campground, nature center, zoo, amusement center or indoor recreation, golf or ski facility, and outdoor recreation or amusement park*) and replace the existing definitions for: *Recreation, Amusement and Recreational facility*:

High-impact recreation means indoor or outdoor recreation that requires one or more permanent structures and has a high impact on the character and environment of the site. This includes but is not limited to stadiums, amusement parks, batting cages, swimming pools, tennis courts, *high amenity campgrounds*, alpine ski resorts, race tracks, miniature golf, go kart tracks, paintball courses, bowling centers, roller skating facilities, *amusement centers*, zoos, and similar recreational or gaming facilities. It also includes club houses or other buildings that support recreational uses that are predominantly *low-impact recreation*, such as nature centers and golf courses.

Low-impact recreation means recreation that does not require permanent buildings or structures, retains natural surfaces, and will have little to no impact on the character and environment of the site. This includes but is not limited to sports fields, trails, *primitive campgrounds*, picnic areas, playgrounds, open pavilions, boat launches, driving ranges, and temporary recreational activities that do not require

permanent structures (such traveling carnivals). It can include those portions of golf courses, nature centers, and other outdoor recreation facilities that do not contain buildings, except for small structures that are a necessary appurtenance of the recreational use, such as restrooms or small storage sheds.

STC also recommends that the definition for *campground* be expanded with the following definitions to distinguish between the limited impacts of *primitive campgrounds* and the more intensive uses associated with *high amenity campgrounds*:

Primitive campground means a facility that meets the *campground* definition but has limited amenities, does not provide sewer or water hook ups, generally lacks buildings, and does not allow stays longer than two weeks. *Primitive campgrounds* may provide restrooms and electricity. *Primitive campgrounds* are considered a *low-impact recreation* use.

High-amenity campground means a *campground* that may provide multiple utility hook ups and other services such as camp stores, outdoor games and other facilities and may allow stays of greater than two weeks. *High-amenity campgrounds* are considered a *high-impact recreation* use.

Recommended Use Table Amendments

STC recommends elimination of the Recreation Conservation District (RCD) and limiting allowed uses in the Conservation zone as follows, including a note to direct the special considerations for site plan review of proposed use in this zone:

USE	Conservation District (C)**
<i>General – As Principal Use</i>	
<i>Low-impact recreation</i>	P
Wind energy conversion system	S
<i>Business – As Principal Use</i>	
<i>Agricultural animal*</i>	S
<i>Agricultural plant*</i>	S
<i>Antenna</i>	S
<i>Auction facility, Farm</i>	S
<i>Low-impact recreation</i>	P
Stable, commercial	S
<i>Tower</i>	S

Wireless telecommunication facility	S
<i>Industrial – As Principal Use</i>	
<i>Extractive use, soil mining</i>	X
<i>Accessory to a Principal Use Listed in this Table</i>	
<i>Accessory use other than those listed below</i>	X
<i>Antenna</i>	S
<i>Roadside stand</i>	S
Wind Energy Conversion System	S
Stable, Private	S

**** Buildings** are generally prohibited in the Conservation District. However, restrooms and other facilities may be necessary to support desirable *low-impact recreation* and agricultural uses. Whenever possible, such buildings should be located outside of the C zone. When this is not feasible, small buildings are permitted in zone C on parcels larger than 10 acres, provided that the building is “a necessary appurtenance” of the recreational, agricultural, or open space use. Open pavilions are not considered *buildings*, and are thus permitted. These considerations should be taken up by the planning board during the site plan review of the proposed use.

Filling, storage, and other encroachments on natural drainage and flood flows are prohibited in zone C.

STC recommends that the following recreation uses replace: *Campground, Nature center, Zoo, Amusement center* or indoor recreation, Golf or ski facility, and Outdoor recreation or amusement park:

USE	RU	R1	R2	TC	TC2	TCR	BN	BN2	BNR	BR	ABD	CL	I	C**
<i>General – As Principal Use</i>														
<i>Low-impact recreation</i>	P	P	P	S	S	S	S	S	P	S	X	S		P
<i>High-impact recreation</i>				X	X		X	X	X	X		X		
<i>Business – As Principal Use</i>														
<i>Low-impact recreation</i>	P	P	P	S	S	S	S	S	P	S	X	S		P
<i>High-impact recreation</i>				X	X		X	X	X	X		X		

Use Requirement Amendments

For consistency with the recommendations above, the use requirements can be amended as follows.

Use requirements in Section 17.36.250 for “outdoor recreational and/or amusement park” *use* (which would be eliminated as a defined use) could be applied to outdoor recreational activities that are classified as either *high-impact recreation* or *low-impact recreation*:

17.36.250 Outdoor recreation *use* requirements.

- A. Intent. The intent of this section is to control and regulate the impacts associated with outdoor recreational *uses* to assure minimum adverse impact on surrounding *uses*. Outdoor recreational *use* includes outdoor activities classified as *high-impact recreation* or *low-impact recreation*. These facilities may be of a commercial or of a public nature, such as a town or *county* park.

Change the wording of B.2 and C.1 to replace “outdoor recreational and/or amusement park *use*” with “outdoor recreational *use*.”

The reference to “outdoor recreational and/or amusement park *use*” in Section 17.36.330 (as an allowed *accessory use* for a drive in theater) should be revised or removed.

The reference to “golf or ski facility” in Section 17.40.020-B.1, *accessory structure* requirements, could be revised or removed.

Sand and Gravel Mining

The State Department of Environmental Conservation (NYS DEC) requires a mining permit, reclamation plan, and financial security for any mine that produces more than 750 cubic yards per 12 month period. Although the Town may be involved in the permit and enforcement process, state law supersedes local government authority over many aspects of these operations. Towns can adopt mining regulations and specify the zones in which mines are allowed. These local mining regulations can fully regulate mines under the DEC threshold of 750 cubic yards and also provide minimal regulations for mines that NYS DEC regulates. NYS DEC will consider zoning (and other local land use regulations) when approving a mining permit. For mines over the 750 cubic yard threshold, towns can require bonds, review mining and reclamation plans (which are required by DEC), and enforce these plans. The town can also regulate setbacks, access gates, hours of operation, and the location of haul roads if on a public road. In addition, any mining in the floodplain requires a Floodplain Development Permit from the Town.

Conservation (C) Zone Recommendations

Sand and gravel mining is a very intense use that most naturally fits into Industrial districts. But mining can also be considered, under the right circumstances, in the Conservation (C) zone. Mineral extraction in floodplains destroys ecological values, but can allow for greater storage of water during flood events. Mining within the floodplain may thus be appropriate if measures are taken to reduce flood risk. Should a gravel mine be permitted in a floodplain, the extra step of obtaining a Floodplain Development Permit would be required.

STC recommends that the Town first agree on revised language clarifying the intent of the Conservation zone and then determine whether mining within this zone is consistent with this intent. The current description of this zone may not preclude resource extraction as an allowed use. However, the Natural Environment goals and objectives in the Comprehensive Plan support protection of scenic resources, aesthetic value, and vistas. The “beautiful Chemung River Valley and the surrounding Palisades” are identified as important features that contribute to the scenic and recreational value of the Town and the community’s quality of life. The decision of whether to allow *extractive use* within the C zone should be based on a clearer articulation of the intent of this zone.

If the Town chooses to include mining as an allowed use within the Conservation zone, the zone’s intent should be carefully reviewed before allowing any mining activity within this zone. The Special Use permit process must include an evaluation of those features of the Conservation zone that the Town wishes to preserve, such as scenic viewsheds and wildlife habitat.

General Mining Recommendations

STC also recommends that the Town of Big Flats implement the Comprehensive Plan recommendation to adopt a Sand and Gravel Mining Excavation Regulation (page 136). This ordinance should either specify the appropriate zones for mining or adopt an overlay mining zone. The ordinance could require a Special Use Permit (or mining permit) that supplements NYS DEC permit requirements by regulating mines that extract less than 750 cubic yards of material per year. Town requirements for mines above this threshold, which are regulated by NYS DEC, would be limited to the following regulations:

- Require reasonable setbacks
- Require access gates
- Set the hours of operation
- Set the location of the haul road (assuming it is a public road)

DEC requires full mining operation plans as well as reclamation plans as part of their permit process (see <http://www.dec.ny.gov/lands/25003.html>). The Town should consider requiring at least this level of information in their own mining regulations. Because mining has a significant impact on aesthetics and wildlife habitat, additional considerations by the Town should include scenic viewsheds and other natural resources. Although the Town may be limited in the aspects of large mining operation that they can regulate, making these concerns known to NYS DEC during the

permitting process is key to protecting the Town and maintaining the intent of the Town's zoning districts, such as the Conservation zone.

Local examples of mining ordinances include:

- Town of Caton zoning,, pages 71-72:
http://www.stcplanning.org/usr/Program_Areas/Local_Plans_Laws/Local_Laws/Caton_Zoning_10_02_10.pdf
- Town of Lindley zoning, pages 35-37:
http://www.stcplanning.org/usr/Program_Areas/Local_Plans_Laws/Local_Laws/TownofLindleyZoningLawDecember2005.pdf

Summary of Recommendations

Below is a summary of the recommendations in this report.

- 1) Eliminate the Recreation Conservation District (RCD) zone and combine with an adjacent zone as the Town sees fit.
- 2) Revised the Intent of the Conservation (C) zone to clarify what the zone is intended to conserve.
- 3) Make the Conservation zone more restrictive to prohibit new buildings and fill.
- 4) Revise the use table for the Conservation zone as indicated (pages 13-14), including a note to direct the special considerations for site plan review of proposed use in this zone.
- 5) Review the boundaries of the existing Conservation zone in light of the clarified intent and the more restrictive requirements; revise as warranted.
- 6) Adopt definitions for “low-impact recreation” and “high-impact recreation.”
- 7) Adopt camping definitions that distinguish between “primitive” and more intense “high-amenity” camping.
- 8) Revise the use table to include “low-impact recreation” and “high-impact recreation” as noted in the chart on page 14.
- 9) Determine whether mining is a compatible use for the Conservation zone, as articulated in the revised intent.
- 10) Adopt a municipal Mining Ordinance requiring mining permit (through the special use permit process) for any mining operation.
- 11) Communicate openly and often with NYS DEC Division of Mineral Resources concerning new and existing mines, operations and reclamation plans.